

SENATE BILL 4017

By Woodson

AN ACT to amend Tennessee Code Annotated, Title 55,
relative to titling and registration of motor vehicles.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 55-3-126, is amended by deleting subsections (f) and (g) in their entirety and by substituting instead the following:

(f)

(1) When a manufacturer's statement of origin or an existing certificate of title on a motor vehicle is unavailable, a first lienholder or the first lienholder's designee may file a notarized copy of an instrument creating and evidencing a lien or encumbrance on such motor vehicle with the secretary of state and shall remit therewith a fee set by the secretary of state for each lien to be filed. Such recording and filing shall constitute constructive notice of such lien against the motor vehicle described therein to creditors of the owner, subsequent purchasers and encumbrancers, except such liens as are by law dependent upon possession.

(2) The constructive notice shall be effective from the time of the filing of the instrument creating and evidencing the lien or encumbrance as authorized in this subsection (f); provided, that the filing of a lien under the provisions of this section by the lienholder and the payment of the fee therefore shall in no way relieve any person of the obligation of paying the fee now required by law for filing a lien to be evidenced on a certificate of title of motor vehicle.

(3) A lien filed under the provisions of this subsection (f) shall automatically terminate after one hundred eighty (180) days or upon being perfected under other provisions of this section, whichever occurs first.

(4) Whenever a lienholder or the lienholder's designee files a lien under this subsection (f) and later under other provisions of this subsection (f), the lien shall be presumed to be perfected at the time of the earliest filing.

(5) The secretary of state may require as a condition of filing that any document submitted for filing as a lien under this subsection (f) include a cover form, prescribed by the secretary of state, which identifies the name and address of each debtor, the name and address of the lienholder, the vehicle identification number of the motor vehicle, the date the document was executed, and the person and address to whom the acknowledgement of filing should be sent. Such cover form shall be considered part of the instrument creating and evidencing a lien or encumbrance on the motor vehicle described on that form.

(6) Upon request of any person, the secretary of state may issue a certificate showing whether there is on file, on the date stated therein, any presently effective liens naming a particular debtor, giving the date and hour of filing of each such lien, and the vehicle identification number and the name of the lienholder. The fee for such a certificate shall be set by the secretary of state. Upon request, the secretary of state shall furnish a copy of any filed lien for a uniform fee of one dollar (\$1.00) per page.

(7) The secretary of state has the power reasonably necessary to perform the duties required of the secretary of state by this subsection (f), including, without limitation, the power to promulgate necessary and appropriate rules and regulations consistent with this subsection (f), and the power to destroy any documents filed under this subsection (f) two hundred seventy (270) days after the filing of such documents.

(8) Notwithstanding any other provisions of the law to the contrary, the fees collected by the secretary of state under this subsection (f) shall be retained by the secretary of state to offset costs associated with the administration and continued improvement of the secretary of state's recordkeeping functions.

(g) The provisions of subsection (f) added by the provisions of Acts 1998, ch. 1016 shall be reviewed by the house and senate transportation committees by February 1, 2009. The house and senate transportation committees shall prepare a written report, and shall cause to be introduced any necessary legislation to implement the recommendations contained in such report. The house and senate transportation committees shall prepare a written report and any necessary legislation pursuant to such report every three (3) years beginning February 1, 2009, with such report to be delivered to the speaker of the house, the speaker of the senate, the governor, and the secretary of state.

SECTION 2. This act shall take effect July 1, 2008, the public welfare requiring it.